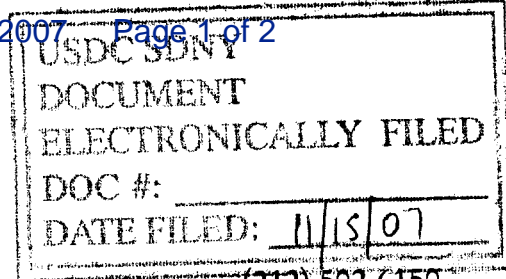


THE LAW FIRM OF  
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Jeffrey S. Dweck, Esq.\*

Of Counsel:

Jack A. Aini, Esq.

\* Also admitted in New Jersey.

Via Hand Delivery

Honorable William H. Pauley, III  
 United States District Court  
 for the Southern District of New York  
 500 Pearl Street - Room 2210  
 New York, New York 10007

November 8, 2007  
 Application granted. Pre-motion conference will  
 be held concurrently with the initial conference on  
 12/21/07 at 12:15 p.m.  
**SO ORDERED:**

WILLIAM H. PAULEY III U.S.D.J.  
 11/9/07

Re: Famous Horse Inc. dba V.I.M. vs. 5<sup>th</sup> Avenue Photo Inc., et al.  
 Case No. 07 CV 7818

**Request for Pre-Motion Conference**

Dear Judge Pauley:

We represent the defendants in this recently-commenced action. We are writing to request (a) a pre-motion conference for the making of a Rule 12(b) Motion to Dismiss, and (b) an extension of time to answer or respond to the complaint through a date to be determined at such conference.

Simply put, this is a case under the Uniform Commercial Code ("UCC") whereby a retailer in New York is suing a wholesaler (or middleman distributor) in New York for selling it allegedly counterfeit goods (allegedly bearing the trademark "Rocawear"). The retailer seeks a refund of its purchase price together with payment of expenses relating to a claim by Rocawear that the goods were counterfeit.

## Procedure to Date

The attorneys have been amiable through the pleadings phase and the parties have agreed upon November 14, 2007 as the date for the defendants to move or answer with respect to the Complaint (in part as a professional courtesy and in part in exchange for defendant's counsel accepting service of process).

## Grounds for a Rule 12(b) Motion

1. This case belongs in state court. While framed as a Lanham Act claim because the goods at issue were allegedly counterfeit or trademark infringements, it is not the trademark holder suing as plaintiff, but a business looking to enforce its rights under the UCC.

Judge William H. Pauley

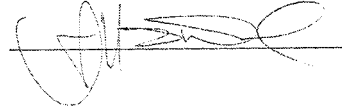
November 8, 2007

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2. This case involves claims made against individuals in their personal capacity. To the extent the case is not dismissed for lack of subject matter jurisdiction, the individual defendants would move for dismissal for failure to state a claim.

Thus, we respectfully ask that the Court set a time and date for a pre-motion conference and that, as soon as practicable, the Court extend the defendant's time to answer or respond to the Complaint until after such pre-motion conference.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'J. Dweck', is written over a horizontal line.

THE LAW FIRM OF  
JEFFREY S. DWECK, P.C.

cc: Feldman Law Group, P.C.  
12 East 41<sup>st</sup> Street  
New York, New York 10017  
Attention: Kenneth Feldman, Esq.  
(Via Fax 212-532-8598 and Email ([ken@feldman-law.com](mailto:ken@feldman-law.com)))